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2 UNITED STATES DISTRICT COURT
3 FOR THE DISTRICT OF MAINE
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5 -----)
6 In Re: COMPACT DISC MINIMUM)
7 ADVERTISED PRICE ANTITRUST)
8 LITIGATION)
9 -----)

MDL Docket No. 1361
This Document Relates To:
ALL CASES

10 **JOINT COORDINATION ORDER**
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12 The Clerk is directed to enter the attached Joint Coordination Order.
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15 SO ORDERED, this 8th day of May, 2001.
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18 _____
19 D. Brock Hornby
20 United States Chief District Judge
21 District of Maine
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2 SUPERIOR COURT OF THE STATE OF CALIFORNIA
3 FOR LOS ANGELES COUNTY
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6 Coordination Proceeding

7 Special Title (Rule 1550(b))

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9 COMPACT DISK CASES
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**JUDICIAL COUNCIL COORDINATION
PROCEEDING**

NO. 4123

Assigned to the Los Angeles
Superior Court, Department 59;

Hon. Bruce E. Mitchell,
Coordination Trial Judge

JOINT COORDINATION ORDER

Date Filed: Various (coordinated 09/25/00)

Trial Date: None Set

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18 The Clerk is directed to enter the attached Joint Coordination Order.
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20 SO ORDERED, this ____ day of May, 2001.
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22 _____
23 Commissioner Bruce E. Mitchell
24 Coordination Trial Judge
25 Los Angeles Superior Court
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3 **JOINT COORDINATION ORDER**
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5 WHEREAS, a federal proceeding captioned *In Re: Compact Disc Minimum Advertised*
6 *Price Antitrust Litigation*, MDL Docket No. 1361 (the "MDL Proceeding"), is pending before the Hon.
7 D. Brock Hornby in the United States District Court for the District of Maine (the "MDL Court");

8 WHEREAS, a California state-court proceeding captioned *Compact Disk Cases*, Judicial
9 Council Coordination Proceeding No. 4123 (the "California Coordination Proceeding"), is pending
10 before the Hon. Bruce E. Mitchell, Coordination Trial Judge, in the California Superior Court, Los
11 Angeles County, Department 59 (the "JCCP Court");

12 WHEREAS, several other actions involving the same subject matter as the MDL
13 Proceeding and the California Coordination Proceeding have been filed in the courts of a number of
14 states (the "Other State-Court Actions");

15 WHEREAS, the MDL Proceeding, the California Coordination Proceeding, and the Other
16 State-Court Actions involve many of the same factual allegations and circumstances and many of the
17 same parties, and discovery in those various proceedings will substantially overlap;

18 WHEREAS, coordination of pretrial proceedings in the MDL Proceeding, the California
19 Coordination Proceeding, and the Other State-Court Actions will likely prevent duplication of
20 discovery and undue burden on parties and non-parties in responding to discovery requests, save
21 substantial expense by the parties and non-parties and produce substantial savings in judicial
22 resources;

23 WHEREAS, each Court adopting this Order (collectively, the "Courts") finds that
24 coordination of discovery and pretrial scheduling in the MDL Proceeding, the California Coordination
25 Proceeding, and the Other State-Court Actions will further the just and efficient disposition of each
26 proceeding and therefore have concluded that the circumstances presented by these proceedings
27 warrant the adoption of certain procedures to manage these litigations;

1 WHEREAS, the Courts and the parties anticipate that other courts in which Other State-
2 Court Actions are now pending may join this Joint Coordination Order (this "Order");

3 WHEREAS, a State-Court Action in which this Order has been entered by the court in
4 which the action is pending is referred to herein as a "Coordinated Action" or, collectively and
5 including the California Coordination Proceeding, as the "Coordinated Actions"; and

6 WHEREAS, each Court entering this Order is mindful of the jurisdiction of each of the
7 other courts in which other Coordinated Actions are pending and does not wish to interfere with the
8 jurisdiction or discretion of those courts.

9 NOW, THEREFORE, IT IS ORDERED that the parties are to work together to coordinate
10 discovery to the maximum extent feasible in order to prevent duplication of effort and to promote the
11 efficient and speedy resolution of the MDL Proceeding and the Coordinated Actions and, to that end,
12 the following procedures for discovery and pretrial proceedings shall be adopted:

13 **A. Discovery and Pretrial Scheduling**

14 1. All discovery and pretrial scheduling in the Coordinated Actions will be coordinated
15 to the fullest extent possible with the discovery and pretrial scheduling in the MDL Proceeding. The
16 MDL Proceeding shall be used as the lead case for discovery and pretrial scheduling in the
17 Coordinated Actions.

18 2. Plaintiffs in the Coordinated Actions and their counsel shall be entitled to participate
19 in discovery in the MDL Proceeding as set forth in this Order and in accordance with the terms of the
20 Stipulated Protective Order entered in the MDL Proceeding, a copy of which is attached hereto as
21 Exhibit A (the "MDL Protective Order"). Each court that adopts this Joint Coordination Order thereby
22 also adopts the MDL Protective Order which, except as amended by separate order of the adopting
23 court, shall govern the use and dissemination of all documents and information produced in
24 coordinated discovery conducted in accordance with the terms of this Order. Discovery in the MDL
25 Proceeding will be conducted in accordance with the Federal Rules of Civil Procedure and the Local
26 Rules and Orders of the MDL Court, including the MDL Protective Order, all as interpreted by the
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MDL Court. Parties in the MDL Proceeding and their counsel may also participate in discovery in any Coordinated Action as set forth in this Order.

3. The parties in a Coordinated Action may take discovery (whether directed to the merits or class certification) in the state court only upon leave of the court in which the Coordinated Action is pending. Such leave shall be obtained on noticed motion for good cause shown, including why the discovery sought could not have been obtained in coordinated discovery in the MDL Proceeding.

B. Use of Discovery Obtained in the MDL Proceeding

4. Counsel representing the plaintiff or plaintiffs in a Coordinated Action will be entitled to receive all discovery taken in the MDL Proceeding, provided that such discovery responses and documents shall be used or disseminated only in accordance with the terms of the MDL Protective Order. Counsel representing a party in the MDL Proceeding shall be entitled to receive all discovery taken in any Coordinated Action; any such discovery responses and documents shall be used or disseminated only in accordance with the terms of the MDL Protective Order.

5. Requests for documents, interrogatories, depositions on written questions and requests for admission propounded in the MDL Proceeding will be deemed to have been propounded and served in the Coordinated Actions. The parties' responses to such requests for documents, interrogatories, depositions on written questions and requests for admission will be deemed to be made in the Coordinated Actions and may be used in those actions, subject to and in accordance with the terms of the MDL Protective Order, as if they had been taken under the applicable civil discovery rules of the respective jurisdictions.

6. Depositions taken in the MDL Proceeding may be used in the Coordinated Actions, subject to and in accordance with the terms of the MDL Protective Order, as if they had been taken under the applicable civil discovery rules of the respective jurisdictions.

1 **C. Service and Coordination Among Counsel**

2 7. The MDL Court has previously appointed Liaison Counsel for all parties in the
3 MDL Proceeding (the "MDL Liaison Counsel") and Lead Counsel for the Plaintiff States and Private
4 Plaintiffs (those counsel are identified in the attached Exhibit B). The MDL Distributor Defendants'
5 Liaison Counsel shall file with the MDL Court and serve upon all MDL Liaison Counsel copies of all
6 Coordination Orders, Confidentiality or Protective Orders, and Orders designating plaintiffs' liaison
7 counsel that are entered in the Coordinated Actions. Each MDL Liaison Counsel shall maintain and
8 make available to counsel in their liaison group and to other MDL Liaison Counsel an up-to-date
9 service list for the Coordinated Actions.

10 8. The JCCP Court has previously appointed the firm of Zelle, Hofmann, Voelbel,
11 Mason & Gette LLP as Plaintiffs' Liaison Counsel in the California Coordination Proceeding; that firm
12 shall serve as liaison counsel to facilitate coordination of discovery in the California Coordination
13 Proceeding and discovery in the MDL Proceeding.

14 9. Any court wishing to grant the parties before it access to coordinated discovery may
15 do so by joining this Order pursuant to paragraph 26 and appointing one Plaintiffs' Liaison Counsel to
16 facilitate coordination of discovery in the Coordinated Action and discovery in the MDL Proceeding.

17 10. The MDL Distributor Defendants' Liaison Counsel shall promptly serve upon
18 Plaintiffs' Liaison Counsel in each Coordinated Action all discovery requests (including requests for
19 documents, interrogatories, depositions on written questions, requests for admission and subpoenas
20 duces tecum), responses and objections to discovery requests; deposition notices; correspondence or
21 other papers modifying discovery requests or schedules; and discovery motions (*i.e.*, motions under
22 Rules 26 through 37 or Rule 45 of the Federal Rules of Civil Procedure) or requests for hearing on
23 discovery disputes regarding coordinated discovery matters that are served upon the parties in the
24 MDL Proceeding. Deposition notices shall be served by facsimile. Plaintiffs' Liaison Counsel in the
25 Coordinated Actions shall be responsible for distributing such documents to other counsel for
26 plaintiffs in their respective actions.

11. The MDL Distributor Defendants' Liaison Counsel shall maintain a log of all Orders entered in the MDL Proceeding and all discovery requests and responses sent and received in the MDL Proceeding and shall transmit a copy of said log by facsimile to Plaintiffs' Liaison Counsel in each Coordinated Action by the seventh (7th) day of each month, or upon written request. The MDL Distributor Defendants' Liaison Counsel will promptly transmit a copy of each order entered in the MDL Proceeding to Plaintiffs' Liaison Counsel in the Coordinated Actions.

D. Participation in Depositions in the MDL Proceeding

12. Each deposition taken in the MDL Proceeding: (i) will be conducted on reasonable written notice, to be served on Plaintiffs' Liaison Counsel in each Coordinated Action in accordance with the provisions of paragraph 10 above; (ii) shall be subject to a reasonable time limit and such other rules as to timing as are imposed by Rule or Order of the MDL Court, which may, in accordance with the provisions of Rule 30(d)(2) of the Federal Rules of Civil Procedure, exceed the one-day, seven-hour (7-hour) time limit described therein; and (iii) will be conducted pursuant to the Federal Rules of Civil Procedure and under the terms of the MDL Protective Order, all as interpreted by the MDL Court.

13. At least one Lead Counsel for the MDL Plaintiffs, or their designee, shall confer with Plaintiffs' Liaison Counsel in the Coordinated Actions, or their designees, in advance of each deposition taken in the MDL Proceeding, taking such steps as may be necessary to avoid multiple interrogators and duplicative questions, and to avoid additional depositions in the Coordinated Actions.

14. Counsel representing the plaintiff or plaintiffs in a Coordinated Action shall be permitted to attend any deposition scheduled in the MDL Proceeding. One Plaintiffs' Counsel from each Coordinated Action shall be permitted a reasonable amount of time to question the deponent in those depositions following questioning by the MDL Plaintiffs' Lead Counsel, or their designee or designees, and shall be permitted to make objections during examination by other counsel, in accordance with the Federal Rules of Civil Procedure, the Local Rules of the MDL Court and the

1 Orders of the MDL Court entered in the MDL Proceeding, and in accordance with the terms and
2 procedures set forth in subparts (a) through (c) below providing that:

3 (a) the court in which the Coordinated Action is pending has adopted the MDL
4 Protective Order or has entered a Protective Order substantially similar to the MDL
5 Protective Order;

6 (b) any questions asked by Plaintiffs' Counsel from the Coordinated Action shall
7 be nonduplicative of questions previously asked in the deposition; and

8 (c) participation of Plaintiffs' Counsel from the Coordinated Actions shall be
9 arranged so as not to delay discovery or other proceedings as scheduled in the MDL
10 Proceeding.

11 15. Counsel representing any party to any Coordinated Action may obtain directly from
12 the court reporter at its own expense a transcript of any deposition taken in the MDL Proceeding or in
13 any other Coordinated Action. The transcript of any deposition taken in the MDL Proceeding shall not
14 be used or disseminated except in accordance with the terms of this Order and the MDL Protective
15 Order.

16 16. Depositions in addition to those taken in the MDL Proceeding (whether directed to
17 the merits or class certification) may be taken in a Coordinated Action only upon leave of the state
18 court in which the Coordinated Action is pending, obtained on noticed motion for good cause shown,
19 including why the discovery sought could not have been obtained in coordinated discovery in the MDL
20 Proceeding. The transcript of any such deposition shall not be used or disseminated except in
21 accordance with the terms of the MDL Protective Order.

22 17. If depositions in addition to those taken in the MDL Proceeding are permitted in a
23 Coordinated Action, the noticing party shall provide reasonable written notice, by facsimile, to all
24 MDL Liaison Counsel and all Liaison Counsel in the other Coordinated Actions. Counsel
25 representing parties in the MDL Proceeding and counsel representing plaintiffs in each other
26 Coordinated Action shall be entitled to attend the deposition of any witness whose deposition is taken
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1 in a Coordinated Action and, following questioning by Plaintiffs' Counsel in the Coordinated Action,
2 one counsel representing the MDL Plaintiff States, one counsel representing the MDL Private
3 Plaintiffs, one counsel representing each MDL Defendant and one Plaintiffs' Counsel from each
4 Coordinated Action shall each be permitted a reasonable amount of time to ask nonduplicative
5 additional questions and shall be permitted to make objections during examination by other counsel.

6 18. If the MDL Plaintiff States and the MDL Private Plaintiffs, through their respective
7 Liaison Counsel, have been provided with reasonable notice of and opportunity to participate in a
8 deposition taken in any Coordinated Action, no MDL Plaintiff shall be permitted to re-depose that
9 deponent without first obtaining an Order of the MDL Court upon a showing of good cause therefor.
10 Any party or witness receiving notice of a deposition which it contends is not permitted by the terms of
11 this Order shall have seven (7) days from receipt of the notice within which to serve the noticing party
12 with a written objection to the deposition. In the event of such an objection, the deposition shall not go
13 forward until the noticing party applies for and receives an order from the MDL Court granting leave
14 to take the deposition.

15 **E. Participation in Written Discovery in the MDL Proceeding**

16 19. At least one Lead Counsel for the MDL Plaintiffs, or their designee, shall confer
17 with Plaintiffs' Liaison Counsel in the Coordinated Actions, or their designees, in advance of the
18 service of requests for written discovery in the MDL Proceeding, taking such steps as may be
19 necessary to avoid additional interrogatories, depositions on written questions, requests for admission
20 and requests for documents in the Coordinated Actions.

21 20. Plaintiffs' Liaison Counsel in any Coordinated Action may submit requests for
22 documents, interrogatories, depositions on written questions and requests for admission to MDL
23 Plaintiffs' Liaison Counsel for the Plaintiff States and/or the Private Plaintiffs for inclusion in the
24 requests for documents, interrogatories, depositions on written questions and requests for admission to
25 be propounded in the MDL Proceeding. Such requests shall be included in the requests propounded in
26 the MDL Proceeding, provided that:
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- 1 (a) the requests for documents, interrogatories, depositions on written questions
2 and/or requests for admission are submitted to MDL Plaintiffs' Liaison Counsel within ten
3 (10) calendar days after MDL Plaintiffs' Liaison Counsel have notified Plaintiffs' Liaison
4 Counsel in the Coordinated Actions of MDL Plaintiffs' intent to serve such discovery; and
5 (b) the requests are nonduplicative of requests proposed by MDL Plaintiffs' Lead
6 Counsel.

7 The number of interrogatories permitted in the MDL Proceeding will be subject to such limitations as
8 are imposed by Rule or Order of the MDL Court, which may, in accordance with the provisions of
9 Rule 33(a) of the Federal Rules of Civil Procedure, exceed the limit described therein.

10 21. Requests for documents, interrogatories, depositions on written questions and
11 requests for admission in addition to those served in the MDL Proceeding (whether directed to the
12 merits or class certification) may be propounded in a Coordinated Action only upon leave of the state
13 court in which the Coordinated Action is pending, obtained on noticed motion for good cause shown,
14 including why the discovery sought could not have been obtained in coordinated discovery in the MDL
15 Proceeding. A motion for leave to serve additional document requests, interrogatories, depositions on
16 written questions and/or requests for admission which were proposed by Plaintiffs' Liaison Counsel in
17 a Coordinated Action in accordance with paragraph 20 and which were not included in the discovery
18 requests served by MDL Plaintiffs' Counsel in the MDL Proceeding shall be filed in the state court on
19 notice within twenty-one (21) calendar days of service of the MDL Plaintiffs' discovery request from
20 which those requests for documents, interrogatories, depositions on written questions and/or requests
21 for admission were omitted.

22 22. All parties to the MDL Proceeding, through their respective Liaison Counsel, shall
23 be entitled to receive copies of responses to interrogatories, responses to depositions on written
24 questions, responses to requests for admission and documents produced in any Coordinated Action.
25 Any party or counsel otherwise entitled under this order to receive copies of discovery from other
26 parties or counsel shall reimburse the producing party for actual out-of pocket costs incurred in
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1 connection with the copying and shipping of such discovery (including but not limited to document
2 productions) and shall use such materials only in accordance with the terms of the MDL Protective
3 Order.

4 23. Any counsel representing a plaintiff in a Coordinated Action shall, in accordance
5 with any Orders of the MDL Court entered in the MDL Proceeding and subject to the terms of the
6 MDL Protective Order, have access to any document depository that may be established by the parties
7 to the MDL Proceeding.

8 **F. Discovery Dispute Resolution**

9 24. In the event that the parties are not able to resolve any disputes that may arise in the
10 coordinated pretrial discovery conducted in the MDL Proceeding, including disputes as to the
11 interpretation of the MDL Protective Order, such disputes will be presented to the MDL Court.
12 Resolution of such disputes shall be pursuant to the applicable federal or state law, as required, and
13 such resolution may be sought by any party permitted by this Order to participate in the discovery in
14 question. In the event that additional discovery is sought in a Coordinated Action and the parties to
15 that action are not able to resolve any discovery disputes that may arise in connection with that
16 additional discovery, such disputes will be presented to the court in which that Coordinated Action is
17 pending.

18 25. Nothing contained herein shall constitute or be deemed to constitute a waiver of any
19 objection of any defendant or plaintiff to the admissibility at trial, of any documents, deposition
20 testimony or exhibits, or written discovery responses provided or obtained in accordance with this
21 Order, whether on grounds of relevance, materiality or any other basis, and all such objections are
22 specifically preserved. The admissibility into evidence in any Coordinated Action of any material
23 provided or obtained in accordance with this Order shall be determined by the court in which such
24 action is pending.

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3 Exhibit B: MDL Lead and Liaison Counsel
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